



Order Filed on March 8, 2023
by Clerk
U.S. Bankruptcy Court
District of New Jersey

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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Counsel to the Debtor and Debtor in Possession

In re:

ASSUNCAO BROS., INC.,

Debtor.

Chapter 11 (Subchapter V)

Case No. 22-16159-CMG

Judge: Hon. Christine M. Gravelle

**CONSENT ORDER GRANTING LIMITED RELIEF FROM THE AUTOMATIC STAY
FOR WIGGINS PLASTICS, INC. AND KNICKERBOCKER BED COMPANY**

The relief set forth on the following pages numbered two (2) through five (5) is hereby

ORDERED.

DATED: March 8, 2023

142950823.2

A handwritten signature in black ink, reading "Christine M. Gravelle", is written over a horizontal line. Below the line, the text "Honorable Christine M. Gravelle" and "United States Bankruptcy Judge" is printed.

Honorable Christine M. Gravelle
United States Bankruptcy Judge

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Debtor: Assuncao Bros., Inc.

Case No.: 22-16159-CMG

Caption: Consent Order Granting Limited Relief from Automatic Stay for Wiggins
Plastics, Inc. and Knickerbocker Bed Company

THIS MATTER having been brought before the Court upon the joint application of Wiggins Plastics, Inc. (“Wiggins”) and Knickerbocker Bed Company (“Knickerbocker”) (together, Wiggins/Knickerbocker) and Assuncao Bros., Inc. (the “Debtor”), the debtor and debtor-in-possession in the above-captioned chapter 11, subchapter v case, for entry of the within Consent Order granting relief from the automatic stay so that Wiggins/Knickerbocker may commence and prosecute litigation claims against the Debtor as provided for in this Consent Order, by way of filing of a motion for leave to file and serve an amended complaint in *Wiggins Plastics, Inc. and Knickerbocker Bed Company v. County of Passaic, et al.*, No. PAS-L-002441-22 (the “Action”), pending in Passaic County, New Jersey, adding the Debtor as a party to that Action; and Wiggins having filed an unliquidated unsecured proof of claim, as amended, in the amount of \$11,053,938.63 designated as claim number 56-2, and Knickerbocker having filed an unliquidated unsecured proof of claim in the amount of \$267,772.49 designated as claim number 57-1 (together, the “Wiggins/Knickerbocker Claims”); and good cause appearing therefore, it is hereby

ORDERED that the automatic stay pursuant to 11 U.S.C. § 362(a) is hereby modified to permit Wiggins/Knickerbocker to proceed with the Action with respect to claims against the Debtor subject to the terms of this Consent Order; and it is further

ORDERED, that the Debtor shall fulfill and perform its obligations under the Debtor’s policies of insurance and shall cooperate with Wiggins/Knickerbocker in connection with the efforts of Wiggins/Knickerbocker to recover from the Debtor’s insurance carriers; and it is further

ORDERED, that the Debtor shall only be required to defend the Action or any other proceeding commenced by Wiggins/Knickerbocker related to the claims underlying the Action to the extent required under any applicable insurance policy, and Wiggins/Knickerbocker shall seek recovery in the Action and from any claims related to the Action solely against non-debtor defendants and the

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Debtor: Assuncao Bros., Inc.

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Caption: Consent Order Granting Limited Relief from Automatic Stay for Wiggins
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proceeds of any insurance coverage applicable to the Debtor and not against the Debtor's bankruptcy estate; and it is further

ORDERED, that the Debtor shall, within three (3) days of the entry of this Consent Order, provide to Wiggins/Knickerbocker true, complete, and unredacted copies of insurance policies with nos. GY90756148 issued by Pennsylvania National Security Insurance Co. for the policy period June 7, 2021 to June 7, 2022 and UL90756148 issued by Pennsylvania National Mutual Casualty Company; and it is further

ORDERED, that within thirty (30) days of the entry of this Consent Order, the Debtor shall serve on the appearing counsel for Wiggins/Knickerbocker an answer on behalf of the Debtor, sworn by a legal representative of the Debtor, to the following standard New Jersey state court interrogatory:

"Pursuant to R. 4:10-2(b), state whether there are any insurance agreements including excess policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment that may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgement. YES () or NO (). If the answer is "yes", attach a copy of each insurance agreement or policy, or in the alternative state: If the answer is "yes", attach a copy of each insurance agreement or policy, or in the alternative state: (a) number; (b) name and address of insurer or issuer; (c) inception and expiration dates; (d) names and addresses of all persons insured thereunder; (e) personal injury limits; (f) property damage limits; (g) medical payment limits; (h) name and address of person who has custody and possession thereof; and (i) where and when each policy or agreement can be inspected and copied." (New Jersey state court uniform interrogatory Form C, interrogatory no. 13)"

and it is further

ORDERED that upon the receipt and acceptance by Wiggins/Knickerbocker of the Debtor's positive ("Yes") answer and supporting detail to the foregoing interrogatory, the Wiggins/Knickerbocker Claims shall be deemed automatically withdrawn without need for further filing or order of the Court,

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Debtor: Assuncao Bros., Inc.

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Caption: Consent Order Granting Limited Relief from Automatic Stay for Wiggins
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and the Debtor's estate shall have no corporate or personal liability as a result of any judgment that may be entered in Wiggins/Knickerbocker's favor, and Wiggins and Knickerbocker each shall be deemed to waive any and all claims they might hold against the Debtor or the Debtor's estate, including the right to receive any distribution from the Debtor's estate, and Wiggins/Knickerbocker's right to recover from the Debtor and the Debtor's estate shall be limited to amounts recoverable from the Debtor's applicable liability insurance limits (without limiting any amounts which may be recovered by Wiggins/Knickerbocker from any other non-debtor third parties); and it is further

ORDERED, that except as stated above herein, including in the event the Wiggins/Knickerbocker Claims are deemed automatically withdrawn as provided in the preceding paragraph, nothing in this Consent Order or any plan shall be deemed to compromise the Wiggins/Knickerbocker Claims, and the Debtor's right to object to said claims is expressly preserved; and it is further

ORDERED, that if the answer to the interrogatory served and filed is anything other than an unqualified "Yes," with the supporting detail as stated above, then the parties shall have twenty-one (21) days from the date of this Consent Order to file any supplemental applications concerning the issues and the Debtor's right to object to the Wiggins/Knickerbocker Claims are preserved; and it is further

ORDERED, that the entry of this Consent Order shall not be deemed to be a waiver of (a) the Debtor's right to contest any claims asserted against the Debtor's estate in any action arising from any findings, legal conclusions or decisions rendered in the Action or any related proceeding, or (b) the Debtor's right to assert any affirmative claims that the Debtor's estate may hold against any party to the Action or any related proceeding; and it is further

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Debtor: Assuncao Bros., Inc.

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Caption: Consent Order Granting Limited Relief from Automatic Stay for Wiggins
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ORDERED, that this Court shall retain jurisdiction over any and all matters arising from or
related to the implementation or interpretation of this Consent Order.

The undersigned hereby consent to the substance
and entry of this Consent Order.

FOX ROTHSCHILD, LLP
Attorneys for Debtor

Dated: February 28, 2023

By: /s/ Joseph J. DiPasquale
Joseph J. DiPasquale, Esq.

CHARLES ALLEN YUEN LLC
Attorneys for Wiggins and Knickerbocker

Dated: February 28, 2023

By: /s/ Charles Allen Yuen
Charles Allen Yuen, Esq.

In re:
Assuncao Bros., Inc.
Debtor

Case No. 22-16159-CMG
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0312-3
Date Rcvd: Mar 09, 2023

User: admin
Form ID: pdf903

Page 1 of 3
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
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+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.
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Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 11, 2023:

Recip ID	Recipient Name and Address
db	+ Assuncao Bros., Inc., 29 Wood Avenue, Edison, NJ 08820-3503

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 11, 2023

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 9, 2023 at the address(es) listed below:

Name	Email Address
Allen J Barkin	on behalf of Creditor Nobel Equipment & Supplies Inc. abarkin@sbmesq.com, sandyr@sbmesq.com
Anthony Sodono, III	on behalf of Other Prof. Sari B. Placona asodono@msbnj.com
Cameron Deane	on behalf of Creditor Volvo Car Financial Services LLC cdeane@weltman.com
Charles Allen Yuen	on behalf of Creditor Wiggins Plastics Inc. cyuen@cyuen-law.com
Charles Allen Yuen	on behalf of Creditor Knickerbocker Bed Company cyuen@cyuen-law.com
Curtis M Plaza	on behalf of Creditor Manasquan Bank cplaza@riker.com sdechoyan@riker.com

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Total Noticed: 1

Douglas G. Leney	on behalf of Interested Party Martin Assuncao dleney@archerlaw.com ahuber@archerlaw.com
Douglas G. Leney	on behalf of Interested Party Lisa Assuncao dleney@archerlaw.com ahuber@archerlaw.com
Edward H. O'Hare	on behalf of Creditor HEAVY AND GENERAL LABORERS' FUNDS OF NEW JERSEY eohare@zazzali-law.com
Eric R. Perkins	on behalf of Creditor Black Rock Enterprises LLC eperkins@becker.legal tcolombini@becker.legal;mambrose@becker.legal;jlawrence@becker.legal
Eric R. Perkins	on behalf of Creditor Horizon Blue Cross Blue Shield of New Jersey eperkins@becker.legal tcolombini@becker.legal;mambrose@becker.legal;jlawrence@becker.legal
Fleming Ware	on behalf of Creditor Komatsu Financial Limited Partnership fware@vedderprice.com
Gary D. Bressler	on behalf of Creditor NGM Insurance Company gbressler@mdmc-law.com scarney@mdmc-law.com;dprimack@mdmc-law.com;bkleban@mdmc-law.com
John R. Morton, Jr.	on behalf of Creditor AmeriCredit Financial Services Inc. dba GM Financial ecfmail@mortoncraig.com, mortoncraigecf@gmail.com
John R. Morton, Jr.	on behalf of Creditor Santander Consumer USA Inc. dba Chrysler Capital ecfmail@mortoncraig.com mortoncraigecf@gmail.com
Jonathan J. Lerner	on behalf of Interested Party Extech Building Materials Inc. JLerner@starrgern.com, LCrogier@starrgern.com
Joseph A. Caneco	on behalf of Debtor Assuncao Bros. Inc. jcaneco@foxrothschild.com
Joseph J. DiPasquale	on behalf of Other Prof. KCP Advisory Group LLC Jdipasquale@foxrothschild.com, cbrown@foxrothschild.com;msteen@foxrothschild.com
Joseph J. DiPasquale	on behalf of Debtor Assuncao Bros. Inc. Jdipasquale@foxrothschild.com, cbrown@foxrothschild.com;msteen@foxrothschild.com
Joshua H. Raymond	on behalf of Creditor Middlesex County Utilities Authority jraymond@msbnj.com
Justin Baumgartner	on behalf of Creditor Horizon Blue Cross Blue Shield of New Jersey jbaumgartner@becker.legal mambrose@becker.legal
Justin Baumgartner	on behalf of Creditor Black Rock Enterprises LLC jbaumgartner@becker.legal mambrose@becker.legal
Louis A. Modugno	on behalf of Other Prof. Vollers Excavating and Contractors Inc. lmodugno@tm-firm.com
Margaret Mcgee	on behalf of U.S. Trustee U.S. Trustee maggie.mcgee@usdoj.gov
Michael A. Baselice	on behalf of Creditor IUOE Local 825 Benefit Funds mbaselice@decotiislaw.com
Michael R. Herz	on behalf of Debtor Assuncao Bros. Inc. mherz@foxrothschild.com, cbrown@foxrothschild.com
Philip William Allogramento	on behalf of Creditor County of Essex pallogramento@connellfoley.com mcaggiano@connellfoley.com
Richard M. Schlaifer	on behalf of Creditor J.M. Ahle Co. Inc. rschlaifer@earpcohn.com, vbromley@earpcohn.com
Ryan Richard Sweeney	on behalf of Creditor Iron Workers District Council Philadelphia and Vicinity Benefit Funds rsweeney@cjtlaw.org
Ryan Richard Sweeney	on behalf of Creditor Iron Workers Local 11 Benefit Funds rsweeney@cjtlaw.org
Ryan Richard Sweeney	on behalf of Creditor Iron Workers Local 399 Benefit Funds rsweeney@cjtlaw.org
Sari Blair Placona	on behalf of Other Prof. Sari B. Placona splacona@msbnj.com

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User: admin

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Total Noticed: 1

Scott Aaron Levin

on behalf of Creditor NGM Insurance Company slevin@mdmc-law.com

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srever@wjslaw.com

Scott S. Rever

on behalf of Trustee Scott S. Rever srever@genovaburns.com
srever@ecf.inforuptcy.com;dmendez@genovaburns.com;dmendez@ecf.inforuptcy.com

Seth Ptasiewicz

on behalf of Creditor Northeast Carpenters Benefit Funds sptasiewicz@krollfirm.com

Timothy P. Neumann

on behalf of Creditor Ralph Clayton & Sons LLC a/k/a Ralph Clayton & Sons and/or Clayton Concrete
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U.S. Trustee

USTPRegion03.NE.ECF@usdoj.gov

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William E. Craig

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mortoncraigecf@gmail.com

TOTAL: 41